

AMENDED IN SENATE JUNE 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1404

**Introduced by Committee on Judiciary (Feuer (Chair), Atkins,
Dickinson, Huber, Huffman, Monning, and Wieckowski)**

March 7, 2011

An act to amend Section ~~6213~~ of the Business and Professions Code, relating to attorneys; 9250.14 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1404, as amended, Committee on Judiciary. ~~Attorneys. Vehicles:~~ additional registration fee: vehicle-theft crimes.

Existing law, in addition to the other fees imposed for the registration of a vehicle, authorizes a county to impose, upon adoption of a resolution of its board of supervisors, an additional fee of \$1 on all motor vehicles, and continuously appropriates the money to fund local programs relating to vehicle theft crimes. These provisions are repealed as of January 1, 2018. Existing law requires each participating county to issue a fiscal yearend report to the Controller, summarizing certain matters.

This bill would authorize a county of the first class to increase the fee from \$1 to \$2, upon adoption of a resolution of its board of supervisors, and would require the resolution to be submitted to the Department of Motor Vehicles at least 6 months prior to the operative date of the fee increase. This bill would add a new source of revenue to be deposited into a continuously appropriated fund, thereby making an appropriation.

Existing law also requires the Department of the California Highway Patrol, in consultation with all participating county-designated regional coordinators, to review the effectiveness of reducing vehicle theft crimes that were funded by the fees imposed by the above provisions. Existing law requires the department to provide a report based on that review and to submit that report, on or before January 1, 2009, to the Legislature.

This bill would repeal the above obsolete requirements imposed on the Department of the California Highway Patrol and would make other technical, nonsubstantive changes to these provisions.

~~Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation. Existing law requires an attorney or law firm receiving or disbursing trust funds to establish and maintain an IOLTA account, as defined, in which the attorney or law firm is required to deposit or invest all specified client deposits or funds. Existing law requires an attorney or law firm establishing an IOLTA account to report IOLTA account compliance and all other IOLTA account information required by the State Bar in the manner specified by the State Bar.~~

~~This bill would make a technical correction to a definition related to IOLTA accounts.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9250.14 of the Vehicle Code is amended
 2 to read:
 3 9250.14. (a) (1) In addition to any other fees specified in this
 4 code and the Revenue and Taxation Code, upon the adoption of a
 5 resolution by any county board of supervisors, a fee of one dollar
 6 (\$1) shall be paid at the time of registration or renewal of
 7 registration of every vehicle, except vehicles described in
 8 subdivision (a) of Section 5014.1, registered to an address within
 9 that county except those expressly exempted from payment of
 10 registration fees. The fees, after deduction of the administrative
 11 costs incurred by the department in carrying out this section, shall
 12 be paid quarterly to the Controller.
 13 (2) (A) *If a county of the first class has adopted a resolution to*
 14 *impose a one-dollar (\$1) fee pursuant to paragraph (1), the county*

1 *may increase the fee specified in paragraph (1) to two dollars (\$2)*
2 *in the same manner as the imposition of the initial fee pursuant to*
3 *paragraph (1). The two dollars (\$2) shall be paid at the time of*
4 *registration or renewal of registration of a vehicle, and quarterly*
5 *to the controller, as provided in paragraph (1).*

6 *(B) A resolution to increase the fee from one dollar (\$1) to two*
7 *dollars (\$2) pursuant to subparagraph (A) shall be submitted to*
8 *the department at least six months prior to the operative date of*
9 *the fee increase.*

10 ~~(2)~~
11 *(3) In addition to the ~~one dollar (\$1)~~ service fee imposed*
12 *pursuant to paragraph (1), and upon the implementation of the*
13 *permanent trailer identification plate program, and as part of the*
14 *Commercial Vehicle Registration Act of 2001 (Chapter 861 of the*
15 *Statutes of 2000), all commercial motor vehicles subject to Section*
16 *9400.1 registered to an owner with an address in the county that*
17 *established a service authority under this section, shall pay an*
18 *additional service fee of two dollars (\$2).*

19 *(b) Notwithstanding Section 13340 of the Government Code,*
20 *the ~~money~~ moneys paid to the Controller ~~is~~ are continuously*
21 *appropriated, without regard to fiscal years, for the administrative*
22 *costs of the Controller, and for disbursement by the Controller to*
23 *each county that has adopted a resolution pursuant to subdivision*
24 *(a), based upon the number of vehicles registered, or whose*
25 *registration is renewed, to an address within that county.*

26 *(c) Except as otherwise provided in this subdivision, ~~money~~*
27 *moneys allocated to a county pursuant to subdivision (b) shall be*
28 *expended exclusively to fund programs that enhance the capacity*
29 *of local police and prosecutors to deter, investigate, and prosecute*
30 *vehicle theft crimes. In any county with a population of 250,000*
31 *or less, the ~~money~~ moneys shall be expended exclusively for those*
32 *vehicle theft crime programs and for the prosecution of crimes*
33 *involving driving while under the influence of alcohol or drugs,*
34 *or both, in violation of Section 23152 or 23153, or vehicular*
35 *manslaughter in violation of Section 191.5 of the Penal Code or*
36 *subdivision (c) of Section 192 of the Penal Code, or any*
37 *combination of those crimes.*

38 *(d) ~~Money~~ The moneys collected pursuant to this section shall*
39 *not be expended to offset a reduction in any other source of funds,*
40 *nor for any purpose not authorized under this section.*

1 (e) Any funds received by a county prior to January 1, 2000,
2 pursuant to this section, that are not expended to deter, investigate,
3 or prosecute crimes pursuant to subdivision (c) shall be returned
4 to the Controller, for deposit in the Motor Vehicle Account in the
5 State Transportation Fund. Those funds received by a county shall
6 be expended in accordance with this section.

7 (f) Each county that adopts a resolution under subdivision (a)
8 shall submit, on or before the 13th day following the end of each
9 quarter, a quarterly expenditure and activity report to the designated
10 statewide Vehicle Theft Investigation and Apprehension
11 Coordinator in the Department of the California Highway Patrol.

12 (g) A county that imposes a fee under subdivision (a) shall issue
13 a ~~fiscal-year-end~~ *yearend* report to the Controller on or before
14 August 31 of each year. The report shall include a detailed
15 accounting of the funds received and expended in the immediately
16 preceding fiscal year, including, at a minimum, all of the following:

17 (1) ~~The total revenues~~ *amount of funds received and expended*
18 by the county under subdivision (b) for the immediately preceding
19 fiscal year.

20 (2) The total expenditures by the county under subdivision (c)
21 for the immediately preceding fiscal year.

22 (3) Details of expenditures made by the county under
23 subdivision (c), including salaries and expenses, purchase of
24 equipment and supplies, and any other expenditures made listed
25 by type with an explanatory comment.

26 (4) A summary of vehicle theft abatement activities and other
27 vehicle theft programs funded by the fees collected under this
28 section.

29 (5) The total number of stolen vehicles recovered and the value
30 of those vehicles during the immediately preceding fiscal year.

31 (6) The total number of vehicles stolen during the immediately
32 preceding fiscal year as compared to the fiscal year prior to the
33 immediately preceding fiscal year.

34 (7) Any additional, unexpended fee revenues received under
35 subdivision (b) for the county for the immediately preceding fiscal
36 year.

37 (h) Each county that fails to submit the report required pursuant
38 to subdivision (g) by November 30 of each year shall have the fee
39 suspended by the Controller for one year, commencing on July 1

1 following the Controller's determination that a county has failed
2 to submit the report.

3 (i) (1) On or before January 1, ~~2006~~ 2013, and on or before
4 January 1 ~~annually thereafter~~ *of each year*, the Controller shall
5 provide to the Department of the California Highway Patrol copies
6 of the yearend reports submitted by the counties under subdivision
7 (g), and, in consultation with the Department of the California
8 Highway Patrol, shall review the fiscal yearend reports submitted
9 by each county pursuant to subdivision (g) to determine if fee
10 revenues are being utilized in a manner consistent with this section.
11 If the Controller determines that the use of the fee revenues is not
12 consistent with this section, the Controller shall consult with the
13 participating counties' designated regional coordinators. If the
14 Controller determines that the fee revenues are still not consistent
15 with this section, the authority to collect the fee by that county
16 shall be suspended for one year.

17 (2) If the Controller determines that a county has not submitted
18 a fiscal yearend report as required in subdivision (g), the
19 authorization to collect the service fee shall be suspended for one
20 year pursuant to subdivision (h).

21 (3) When the Controller determines that a fee shall be suspended
22 for a county, the Controller shall inform the Department of Motor
23 Vehicles on or before ~~January 1, 2006~~, and on or before January
24 1 ~~annually thereafter~~, *of each year* that the authority to collect a
25 fee for that county is suspended.

26 (j) On or before January 1, ~~2006~~, and on or before January 1
27 ~~annually thereafter~~ *of each year*, the Controller shall prepare and
28 submit to the Legislature a revenue and expenditure summary for
29 each participating county that includes all of the following:

30 (1) The total revenues received by each county.

31 (2) The total expenditures by each county.

32 (3) The unexpended revenues for each county.

33 ~~(k) The Department of the California Highway Patrol, in~~
34 ~~consultation with all participating county designated regional~~
35 ~~coordinators, shall review the effectiveness of reducing vehicle~~
36 ~~theft crimes that were funded by the fees imposed by this section.~~
37 ~~The Department of the California Highway Patrol shall provide a~~
38 ~~report based on that review and, on or before January 1, 2009,~~
39 ~~shall submit that report to the Legislature.~~

40 ~~(t)~~

(k) For the purposes of this section, a county designated regional coordinator is that agency designated by the participating county's board of supervisors as the agency in control of its countywide vehicle theft apprehension program.

(m)

(l) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2018, deletes or extends that date.

~~SECTION 1. Section 6213 of the Business and Professions Code is amended to read:~~

~~6213. As used in this article:~~

~~(a) "Qualified legal services project" means either of the following:~~

~~(1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.~~

~~(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B):~~

~~(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars (\$20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.~~

~~(B) The program shall have quality control procedures approved by the State Bar of California.~~

~~(b) "Qualified support center" means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.~~

~~(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.~~

~~(d) "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under~~

1 the Older Americans Act or Developmentally Disabled Assistance
2 Act. With regard to a project that provides free services of attorneys
3 in private practice without compensation, “indigent person” also
4 means a person whose income is 75 percent or less of the maximum
5 levels of income for lower income households as defined in Section
6 50079.5 of the Health and Safety Code. For the purpose of this
7 subdivision, the income of a person who is disabled shall be
8 determined after deducting the costs of medical and other
9 disability-related special expenses.

10 (e) “Fee generating case” means a case or matter that, if
11 undertaken on behalf of an indigent person by an attorney in private
12 practice, reasonably may be expected to result in payment of a fee
13 for legal services from an award to a client, from public funds, or
14 from the opposing party. A case shall not be considered fee
15 generating if adequate representation is unavailable and any of the
16 following circumstances exist:

17 (1) The recipient has determined that free referral is not possible
18 because of any of the following reasons:

19 (A) The case has been rejected by the local lawyer referral
20 service, or if there is no such service, by two attorneys in private
21 practice who have experience in the subject matter of the case.

22 (B) Neither the referral service nor any attorney will consider
23 the case without payment of a consultation fee.

24 (C) The case is of the type that attorneys in private practice in
25 the area ordinarily do not accept, or do not accept without
26 prepayment of a fee.

27 (D) Emergency circumstances compel immediate action before
28 referral can be made, but the client is advised that, if appropriate
29 and consistent with professional responsibility, referral will be
30 attempted at a later time.

31 (2) Recovery of damages is not the principal object of the case
32 and a request for damages is merely ancillary to an action for
33 equitable or other nonpecuniary relief, or inclusion of a
34 counterclaim requesting damages is necessary for effective defense
35 or because of applicable rules governing joinder of counterclaims.

36 (3) A court has appointed a recipient or an employee of a
37 recipient pursuant to a statute or a court rule or practice of equal
38 applicability to all attorneys in the jurisdiction.

~~(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.~~

~~(f) “Legal Services Corporation” means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).~~

~~(g) “Older Americans Act” means the Older Americans Act of 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).~~

~~(h) “Developmentally Disabled Assistance Act” means the Developmentally Disabled Assistance and Bill of Rights Act, as amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).~~

~~(i) “Supplemental security income recipient” means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.~~

~~(j) “IOLTA account” means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:~~

~~(1) An interest-bearing checking account.~~

~~(2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money market fund.~~

~~(3) An investment product authorized by California Supreme Court rule or order.~~

~~A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is “well-capitalized” or “adequately capitalized” as those terms are defined by applicable federal statutes and regulations. An open-end money market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a “money market fund” as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.); and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars (\$250,000,000).~~

~~(k) “Eligible institution” means either of the following:~~

1 ~~(1) A bank, savings and loan, or other financial institution~~
2 ~~regulated by a federal or state agency that pays interest or dividends~~
3 ~~on the IOLTA account and carries deposit insurance from an~~
4 ~~agency of the federal government.~~

5 ~~(2) Any other type of financial institution authorized by the~~
6 ~~California Supreme Court.~~

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